IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 16334 of 1999

Between:

T.B.Eswaraiah S/o Late Ramaiah,
R/o 13/49, Mandi Bazar,
Kurnool.

..... PETITIONER

AND

1 The Municipal Corporation, Rep. by its Commissioner,
Kurnool.
2 The Town Planning Officer,
O/O. Municipal Corporation, Kurnool.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in B.RS No.1234/98/G1, dt.9-2-1999 as arbitrary and illegal and grant such other relief as the Hon'ble High Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.G.VEERA REDDY

Counsel for the Respondents: MR.V.RAGHUNATH REDDY

The Court made the following :

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ORAL ORDER

Aggrieved by the notice in BRS.No.1234/98/G1, dated 09-02-1999 issued by the respondents demanding an amount of Rs.29,804/- towards regularizing the unauthorized construction made by the petitioner, the present writ petition is filed.

The contention of the petitioner in this writ petition is that the petitioner constructed a house bearing Door No.13/149 in Kurnool Town within 175 square meters and the respondent-Municipal authorities inspected the house and directed the petitioner to pay an amount of Rs.10,000/- for regularizing the un-authorized construction as per G.O.Ms.No.243, M.A dated 22-05-1996. In pursuance of the said demand notice, the petitioner paid Rs.5,000/- on 11-02-1997 and due to financial straits he could not pay the rest of the amount. Later the respondents issued the notice, impugned in this writ petition, demanding an amount of Rs.29,804/- and the said notice is purported to have been issued basing on per G.O.Ms.No.419 dated 30-07-1998.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

As seen from the endorsement in the impugned notice dated 09-02-1999, the respondents have not given any particulars of the amount liable to be paid by the petitioner by way of penal amount. Moreover, prior to issuance of the impugned notice, the respondents issued notice dated 15-10-1996 demanding an amount of Rs.10,000/- towards regularizing the un-authorized construction and in response thereto the petitioner paid Rs.5,000/-. Besides, the said impugned notice was issued without affording an opportunity of hearing the petitioner.

In the facts and circumstances of the case, I deem it appropriate to set aside the notice, impugned in this writ petition, directing the petitioner to pay an amount of Rs.29,804/-.

Accordingly the writ petition is allowed. The notice in BRS No.1234/98/G1, dated 09-02-1999 is set aside. The respondents are directed to pass a final order with regard to payment of penal amount by the petitioner for regularizing the un-authorized construction made by the petitioner, after affording an opportunity of being heard to the petitioner. In the circumstances, there shall be no order as to costs.

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ELIPE DHARMA RAO,J

13TH JULY 2005

*TSNR

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Wednesday the Thirteenth day of July Two Thousand and Five.

To

1 The Commissioner, Municipal Corporation,
Kurnool.
2 The Town Planning Officer,
O/O. Municipal Corporation, Kurnool.

3 Two C.D.Copies.